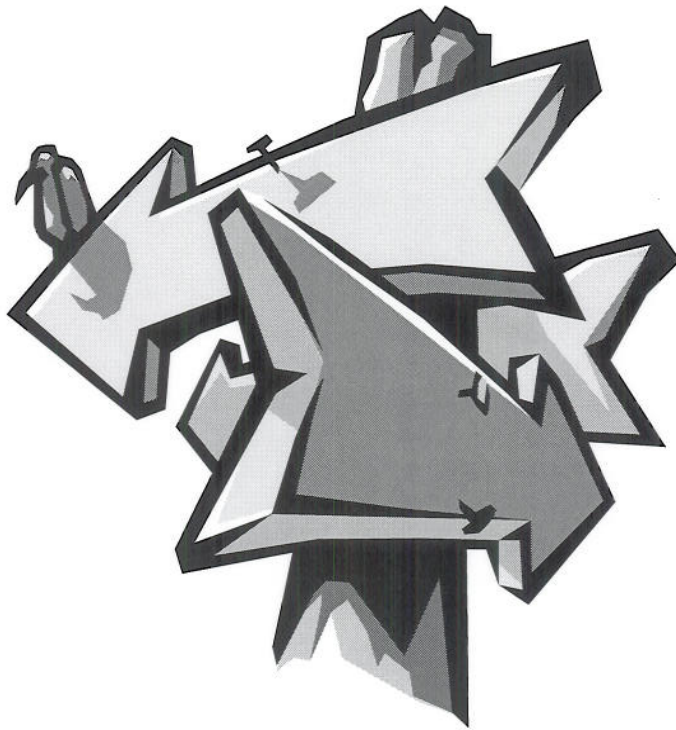


ALASKA'S EXECUTIVE BRANCH ETHICS ACT



TRAINING MANUAL
OCTOBER 2007

ALASKA WORKFORCE INVESTMENT BOARD

RESOURCES

EXECUTIVE BRANCH ETHICS ACT

RESOURCES

Workforce Investment Board Ethics Supervisor
Andy Baker – 907-442-3138

- State Ethics Attorney – Judy Bockmon 269-5216
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- Department of Law Ethics Webpage
<http://www.law.state.ak.us/doclibrary/ethics.html>
Links to guidance, statute, regulations and forms

- Published Attorney General Opinions
on Westlaw, the State Public Notice website,
and the Attorney General's Website

2007 ETHICS LEGISLATION

2007 ETHICS LEGISLATION

As you may know, the 2007 Alaska Legislature recently passed legislation to improve Alaska's ethics and disclosure laws. The changes to the Alaska Executive Branch Ethics Act and some of the changes to the disclosure laws will take effect immediately upon Governor Palin's signing the bill into law. **These changes may apply to YOU**, so you need to know what they are.

The changes to the Executive Branch Ethics Act concern:

- When your interest in a business is insignificant under the Ethics Act;
- Gifts to you and your family members from lobbyists;
- Your employment after leaving state service;
- Working in the same unit as your family members;
- When your activities constitute "official action";
- Using state aircraft for political purposes;
- Lobbying after leaving state service; and
- Serving on boards after leaving state service.

The changes to the disclosure laws — which apply to certain high-level positions in the executive branch and to many boards and commissions — concern:

- Electronic filing of financial disclosures;
- Including more details in financial disclosures;
- Disclosures upon leaving state service; and
- Disclosures from additional boards and commissions.

In addition, a change to the criminal laws requires public servants to report promptly to law enforcement agents when they know or reasonably should know of bribery of a public servant.

A summary of these changes is attached. To see a copy of the legislation, go to <http://www.legis.state.ak.us/PDF/25/Bills/HB0109G.PDF>.



What's New for the Executive Branch in the 2007 Ethics Bill?

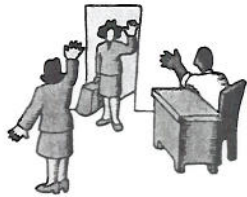
1. Interests in Businesses: If you own stock or have some other ownership interest in a business, and your stock or ownership interest is worth at least \$5,000, you will generally be prohibited from taking action in your state position that would significantly affect that business. Under the Executive Branch Ethics Act, a public officer's stock or other ownership interest in a business is now presumed to be insignificant if the value of the interest is less than \$5,000. The same presumption applies to options to buy stock or other ownership interests. "Public officers" include all executive branch officials and employees, as well as members of executive branch boards and commissions.

The effect of this presumption is that a public officer will generally be forbidden from taking official action that will significantly affect any matter in which the officer holds an interest worth \$5,000 or more. On the other hand, a public officer will generally be permitted to take official action affecting a matter in which the officer has an interest worth less than \$5,000. However, an officer would not be permitted to take official action on a matter in which the officer has an interest worth less than \$5,000 if, for example, the officer's action would significantly increase the value of the interest. The presumption also applies when determining whether an officer has a significant interest in a state contract, grant, lease, or loan. If you have questions about how the presumption may affect your circumstances, consult your designated ethics supervisor.

2. Gifts from Lobbyists: You and your family members should not accept gifts from lobbyists unless your designated ethics supervisor approves the gifts. Lobbyists' gifts to public officers and officers' immediate family members are now presumed to be improper unless the lobbyists are immediate family members of the persons receiving the gifts. A person's "immediate family members" include (1) the person's spouse; (2) someone who shares the person's home in a marriage-like relationship; (3) the person's children, stepchildren, adoptive children, parents, siblings, grandparents, aunts, and uncles; and (4) the person's spouse's parents and siblings.



Because the new law establishes only a presumption, public officers may request approval from their designated ethics supervisors to accept gifts from lobbyists when it would be unreasonable to infer that the gifts were intended to influence the public officers' performance of official duties. For example, a designated ethics supervisor might approve a gift to an executive branch employee who is a long-time neighbor of a lobbyist if the lobbyist offers the gift because the employee is getting married and the employee has no authority over any matters within the scope of the lobbyist's lobbying activities.



3. Employment after Leaving Executive Branch Service:

The new ethics bill expands the restrictions that apply to public officers for two years after they leave service in the executive branch. Former executive branch officers were already barred for two years from working for compensation on matters in which they personally and substantially participated during their state service, but the law included an exception for work on legislation and regulations. The new ethics bill eliminates that exception.

The exception is still available for those who left the executive branch before the new ethics bill took effect, but is unavailable to those who leave after the bill's effective date. The two-year restrictions do not apply to former officers' contracts with the state. Furthermore, an agency may waive the two-year restrictions in some circumstances, if the attorney general approves the waiver. If you have questions about how the restrictions on post-state employment may apply to you, contact your designated ethics supervisor.

4. Working with Family Members: The new ethics bill clarifies that the Executive Branch Ethics Act does not bar immediate family members from working together in the same agency or administrative unit so long as one does not have authority to take or withhold official action affecting the terms of conditions of the other's employment in a way that violates any other provision of the Ethics Act or any other state law.



5. Definition of "Official Action": The new ethics bill clarifies the definition of "official action" in the Executive Branch Ethics Act to include advice, participation, and assistance in a matter.



6. Use of State Aircraft: Public officers may not use state aircraft for partisan political purposes except when the partisan political use is incidental to official duties. An officer's partisan political use of state aircraft may not exceed 10 percent of the total use on a particular trip, and the officer must reimburse the state for the actual cost of the political use. Those who authorize or use state aircraft for partisan political purposes must disclose it to their designated ethics supervisors and the attorney general.

7. Lobbying after Leaving Executive Branch Service: The new ethics bill expands the number of public officers that may not lobby for pay for one year after leaving executive branch service. The one-year lobbying ban already applied to the governor, lieutenant governor, and department heads. Under the new ethics bill, the one-year lobbying ban also applies to (1) deputy heads of departments; (2) division directors; (3) departmental legislative liaisons; (4) legislative liaisons, administrative assistants, and other employees in policy-making positions in the Office of the Governor and Office of the Lieutenant Governor; (5) members of boards and commissions that have regulation-adoption authority, other than those covered by the centralized licensing

provisions of AS 08.01; and (6) members of the governing boards of state public corporations and their executive officers. The expanded lobbying restrictions apply only to those who leave any of the newly covered positions after the ethics bill takes effect.

8. Service on Boards after Leaving Certain Positions:

A new restriction applies to former heads of departments and former employees who held policy-making positions in the Office of the Governor. For one year after leaving service as a department head, the former head of a



department may not serve on the board of an organization that the department regulated or with which the former department head worked as part of official duties. Similarly, for one year after leaving service in a policy-making position in the Governor's Office, a former employee may not serve on the board of an organization with which the former employee worked as part of official duties. Governor's Office employees in "policy-making positions" are those whose positions require that they file annual financial disclosure statements with the Alaska Public Offices Commission.

9. Electronic Filing of Financial Disclosures: Certain high-level members of the executive branch were already required to file financial disclosures annually with the Alaska Public Offices Commission. Now, for any financial disclosures due after July 1, 2007, those officials must file their disclosures electronically. The APOC may grant exceptions where the circumstances warrant them.



10. More Details in Financial Disclosures: More details will be required when high-level officials file their next financial disclosures with the Alaska Public Offices Commission. For example, the bill reduces the threshold for reportable income from \$5,000 to \$1,000.

11. Disclosures from Former Officials: Those who leave high-level positions that required them to file financial disclosures with the Alaska Public Offices Commission now must file final financial disclosures covering their last periods of service. They must file those disclosures within 90 days of leaving service in those positions. The bill's requirement does not apply to those who left before the bill's effective date.

12. Disclosures from Members of More Boards: The bill adds five boards to the list of boards whose members must file annual financial disclosures with the Alaska Public Offices Commission: the Alaska Industrial Development and Export Authority, the board of directors of the Knik Arm Bridge and Toll Authority, the Alaska Labor Relations Agency, the board of trustees of the Alaska Mental Health Trust Authority, and the board of directors of the Alaska Railroad Corporation.

13. Reporting Bribery: The bill requires public servants to report to law enforcement agents whenever the public servants know or reasonably should know of bribery involving a public servant.

INFORMATION FOR BOARDS

State of Alaska

ETHICS INFORMATION FOR MEMBERS OF BOARDS AND COMMISSIONS

(AS 39.52)

INTRODUCTION

This is an introduction to AS 39.52, the *Alaska Executive Branch Ethics Act*. This guide is not a substitute for reading the law and its regulations. State board and commission members who have further questions should contact their board chair or staff.

The Ethics Act applies to all current and former executive branch public employees and *members of statutorily created boards and commissions*.

SCOPE OF ETHICS ACT (AS 39.52.110)

Service on a state board or commission is a public trust. The Ethics Act prohibits substantial and material conflicts of interest. Further, board or commission members cannot improperly benefit financially or personally from their actions as board or commission members. The Act does not, however, discourage independent pursuits, and it recognizes that minor and inconsequential conflicts of interest are unavoidable.

MISUSE OF OFFICIAL POSITION (AS 39.52.120)

Members of boards or commissions may not use their positions for personal gain or to give an unwarranted benefit or treatment to any person. For example, board members may not:

- ◆ use their official positions to secure employment or contracts;

- ◆ accept compensation from anyone other than the State for performing official duties;
- ◆ use State time, equipment, property or facilities for their own personal or financial benefit or for partisan political purposes;
- ◆ take or withhold official action on a matter in which they have a personal or financial interest; or
- ◆ coerce subordinates for his/her personal or financial benefit.
- ◆ attempt to influence outcome of an administrative hearing by privately contacting the hearing officer.



Terry knew that a proposal that was before the board would harm Terry's business competitor. Instead of publicly disclosing the matter and requesting recusal, Terry voted on the proposal.



Board member Mick has board staff employee Bob type an article for him that Mick hopes to sell to an Alaskan magazine. Bob types the article on State time.

IMPROPER GIFTS (AS 39.52.130)

A board member may not solicit or accept gifts if it could reasonably be inferred that the gift is intended to influence the board member's action or judgment. "Gifts" include money, items of value, services, loans, travel, entertainment, hospitality, and employment. All gifts from lobbyists are presumed to be improper, unless the giver is an immediate family member of the person receiving the gift.

A gift worth more than \$150 to a board member or the board member's family must be reported within 30 days if:


- ◆ the board member can take official action that can affect the giver, or
- ◆ the gift is given to the board member because he or she is on a state board.

The receipt of a gift worth less than \$150 may be prohibited if it could reasonably be inferred that the gift is intended to influence the board member's action or judgment. Receipt of such a gift should be disclosed.

Any gift received from another government, regardless of value, must be reported; the board member will be advised as to the disposition of this gift.

A form for reporting gifts is available at www.law.state.ak.us/doclibrary/ethics or from the board or commission staff.


This restriction on gifts does not apply to lawful campaign contributions.

 The commission is reviewing Roy's proposal for an expansion of his business. Roy invites all the board members out to dinner at an expensive restaurant. He says it will be okay, since he isn't excluding any of the members.


 Sam buys a holiday gift every year for Jody. Jody was recently appointed to a board, but Sam has no business that is up before the board.

IMPROPER USE OR DISCLOSURE OF INFORMATION (AS 39.52.140)

No former or current member of a board may use or disclose any information acquired through the board if that use or disclosure could result in a financial or personal benefit to the board member (or a family member), unless that information has already been disseminated to the public.

 Sheila has been on the board for several years. She feels she has learned a great deal of general information about how to

have a successful business venture. So she sets up her own business and does well.

 Delores has always advised and assisted the other doctors in her clinic on their continuing education requirements. After Delores is appointed to the medical board, she discloses this role to the board and continues to advise the doctors in her clinic.

IMPROPER INFLUENCE IN STATE GRANTS, CONTRACTS, LEASES OR LOANS (AS 39.52.150)

A board member who can affect the award or administration of a State grant, contract, lease, or loan may not apply for, or have an interest in that State grant, contract, lease, or loan. This prohibition also applies to the board member's immediate family.

A board member (or a family member) may apply for or be a party to a *competitively solicited* State grant, contract or lease, if the board member does not serve in the same administrative unit awarding or administering the grant, contract, or lease *and* so long as the board member is not in a position to take official action in the award or administration of the grant, contract, or lease.

A board member (or a family member) may apply for and receive a State loan that is generally available to the public and has fixed eligibility standards, so long as the board member does not take (or withhold) official action affecting the award or administration of the loan.

Board members must report to the board chair any personal or financial interest (or that of a family member) in a State grant, contract, lease or loan that is awarded or administered by the agency the board member serves. *A form for this purpose is available at www.law.state.ak.us/doclibrary/ethics or from the board or commission staff.*



John sits on a board that awards state grants. John hasn't seen his daughter for nearly ten years so he figures that it doesn't matter when her grant application comes up before the board.



The board wants to contract out for an analysis of the board's decisions over the last ten years. Kim would like the contract since she has been on the board for ten years and feels she could do a good job.

IMPROPER REPRESENTATION (AS 39.52.160)

A nonsalaried board or commission member may represent, advise, or assist in matters in which the member has an interest that is regulated by the member's own board or commission, if the member acts in accordance with AS 39.52.220 and discloses the involvement in writing and on the public record, and refrains from all participation and voting on the matter. This section does not allow a board member to engage in any conduct that would violate a different section of the Ethics Act.

RESTRICTION ON EMPLOYMENT AFTER LEAVING STATE SERVICE (AS 39.52.180)

For two years after leaving a board, a former board member may not work on any matter on which the former member had personally and substantially participated while on the board. This prohibition applies to cases, proceedings, applications, and contracts.

Former members of the governing boards of public corporations and former members of boards and commissions that have regulation-adoption authority, except those covered by the centralized licensing provisions of AS 08.01, may not lobby for pay for one year.

This section does not prohibit a State agency from contracting directly with a former board member.

With the approval of the Attorney General, the board chair may waive this prohibition if a determination is made that the public interest is not jeopardized.



The board has arranged for an extensive study of the effects of the Department's programs. Andy, a board member, did most of the liaison work with the contractor selected by the board, including some negotiations about the scope of the study. Andy quits the board and goes to work for the contractor, working on the study of the effects of the Department's programs.



Andy takes the job, but specifies that he will have to work on another project.

AIDING A VIOLATION PROHIBITED (AS 39.52.190)

Aiding another public officer to violate this chapter is prohibited.

AGENCY POLICIES (AS 39.52.920)

Subject to the Attorney General's review, a board may adopt additional written policies further limiting personal or financial interests of board members.

DISCLOSURE PROCEDURES

DECLARATION OF POTENTIAL VIOLATIONS BY MEMBERS OF BOARDS OR COMMISSIONS (AS 39.52.220)

A board member whose interests or activities could result in a violation of the Ethics Act must disclose the matter on the public record and in writing to the board chair who determines whether a violation exists. *A form for this purpose is available at www.law.state.ak.us/doclibrary/ethics or from the board or commission staff.* If a board member objects to the chair's ruling or if the chair discloses a potential conflict, the board members at the meeting (excluding the involved member) must vote on the matter. If

the board chair or the board determines a violation would exist, the member must refrain from deliberating, voting, or participating in the matter. For more information, see *Ethics Act Procedures for Boards and Commissions* available at the above noted web site.

When determining whether a board member is involved in a matter that may result in a violation of the Ethics Act, either the board chair or the board or commission itself may request guidance from the Attorney General.

ATTORNEY GENERAL'S ADVICE (AS 39.52.240-250)

Board chairs or the board itself may request a written advisory opinion from the Attorney General. These opinions are confidential. Versions without identifying information are available to the public.

A former board member may request a written opinion from the Attorney General interpreting the Ethics Act.

REPORTS BY THIRD PARTIES (AS 39.52.230)

A third party may report a suspected violation of the Ethics Act by a board member in writing and under oath to the chair of a board or commission. The chair will give a copy to the board member and to the Attorney General and review the report to determine whether a violation may or does exist. If the chair determines a violation exists, the board member will be asked to refrain from deliberating, voting, or participating in the matter.

COMPLAINTS, HEARINGS, AND ENFORCEMENT

COMPLAINTS (AS 39.52.310-330)

Any person may file a complaint with the Attorney General about the conduct of a current or former board member. Complaints must be written and signed under oath. The Attorney General may also initiate complaints from information provided by a board. A copy of the complaint will be sent to the board member who is the subject of the complaint and to the Personnel Board.

All complaints are reviewed by the Attorney General. If the Attorney General determines that the complaint does not warrant investigation, the complainant and the board member will be notified of the dismissal.

The Attorney General may refer a complaint to the board member's chair for resolution.

After investigation, the Attorney General may dismiss a complaint for lack of probable cause to believe a violation occurred. The complainant and board member will be promptly notified of this decision.

The Attorney General may file an accusation alleging a violation of the Ethics Act.

CONFIDENTIALITY (AS 39.52.340)

Complaints and investigations prior to formal proceedings are confidential. If the Attorney General finds evidence of probable criminal activity, the appropriate law enforcement agency shall be notified.

HEARINGS (AS 39.52.350-360)

An accusation by the Attorney General of an alleged violation may result in a hearing. An administrative law judge from the state's Office of Administrative Hearings serves as hearing officer and determines the time, place and other matters. The parties to the hearing are the Attorney General, acting as prosecutor, and the accused public officer, who may be represented by an attorney. Within 30 days of the conclusion of the hearing, the hearing officer files a report with the Personnel Board and provides a copy to the parties.

PERSONNEL BOARD ACTION (AS 39.52.370)

The hearing officer's report will be reviewed by the Personnel Board. The Personnel Board is responsible for determining whether a violation occurred and for imposing penalties. An appeal may be filed by the board member in the Superior Court.

PENALTIES (AS 39.52.410-460)

When the Personnel Board determines a board member has violated the Ethics Act, the member must refrain from voting, deliberating, or participating in the matter. The Personnel Board may order restitution and may recommend that the board member be removed from the board or commission. If a recommendation of removal is made, the appointing authority will immediately remove the member. If the Personnel Board finds that a former board member violated the Ethics Act, the Personnel Board will issue a public statement about the case and will ask the Attorney General to pursue appropriate additional legal remedies.

State grants, contracts, and leases awarded in violation of the Ethics Act are voidable.

Loans given in violation of the Ethics Act may be made immediately payable.

Fees, gifts, or compensation received in violation of the Ethics Act may be recovered by the Attorney General.

The Personnel Board may impose a fine of up to \$5,000 for each violation of the Ethics Act. In addition, a board member may be required to pay up to twice the financial benefit received in violation of the Ethics Act.

Criminal penalties are in addition to the civil penalties listed above.

DEFINITIONS (AS 39.52.960)

Please keep the following definitions in mind:

Benefit - anything that is to a person's advantage regardless financial interest or from which a person hopes to gain in any way.

Board or Commission - a board, commission, authority, or board of directors of a public or quasi-public corporation, established by statute in the executive branch, including the Alaska Railroad Corporation.

Designated Ethics Supervisor - the chair or acting chair of the board or commission for all board or commission members and for executive directors; for staff members, the executive director is the designated ethics supervisor.

Financial Interest - any property, ownership, management, professional, or private interest from which a board or commission member or the board or commission member's immediate family receives or expects to receive a financial benefit.

Immediate Family - spouse; another person cohabiting with the person in a conjugal relationship that is not a legal marriage; a child, including a stepchild and an adoptive child; a parent, sibling, grandparent, aunt, or uncle of the person; and a parent or sibling of the person's spouse.

Personal Interest - the interest or involvement of a board or commission member (or a family member) in any organization or political party from which a person or organization receives a benefit.

Official Action - advice, participation, or assistance, including, for example, a recommendation, decision, approval, disapproval, vote, or other similar action, including inaction, by a public officer.

For further information and disclosure forms, visit our web site at <http://www.law.state.ak.us> (Executive Branch Ethics) or please contact:

State Ethics Attorney
Alaska Department of Law
1031 West 4th Avenue, Suite 200
Anchorage, Alaska 99501-5903
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Attorney_General@law.state.ak.us

Revised 5/2007

PROCEDURES FOR BOARDS

ETHICS ACT PROCEDURES for BOARDS and COMMISSIONS

All board and commission members and staff should be familiar with the Executive Branch Ethics Act procedures outlined below.

Who Is My Designated Ethics Supervisor (DES)?

Every board or commission subject to the Ethics Act¹ has several ethics supervisors designated by statute.

- ◆ The chair serves as DES for board or commission members.
- ◆ The chair serves as DES for the executive director.
- ◆ The executive director serves as DES for the staff.
- ◆ The governor is the DES for a chair.²

What Do I Have To Disclose?

The Ethics Act requires members of boards and commissions to disclose:

- ◆ Any matter that is a potential conflict of interest with actions that the member may take when serving on the board or commission.
- ◆ Any circumstance that may result in a violation of the Ethics Act.
- ◆ Any personal or financial interest (or that of an immediate family member) in a state grant, contract, lease or loan that is awarded or administered by the member's board or commission.
- ◆ The receipt of certain gifts.

The executive director of the board or commission and its staff, as state employees, must also disclose:

- ◆ Compensated outside employment or services.
- ◆ Volunteer service, if any compensation, including travel and meals, is paid or there is a potential conflict with state duties.

¹ The Act covers a board, commission, authority, or board of directors of a public or quasi-public corporation, established by statute in the executive branch of state government.

² The governor has delegated the DES responsibility to Linda Perez, Administrative Director of the Office of the Governor.

For more information regarding the types of matters that may result in violations of the Ethics Act, board or commission members should refer to the guide, *"Ethics Information for Members of Boards and Commissions."* The executive director and staff should refer to the guide, *Ethics Information for Public Employees."* Both guides and disclosure forms may be found on the Department of Law's ethics website: <http://www.law.state.ak.us/doclibrary/ethics.html>.

How Do I Avoid Violations of the Ethics Act?

- ◆ Make timely disclosures!
- ◆ Follow required procedures!
- ◆ Provide all information necessary to a correct evaluation of the matter!³
- ◆ When in doubt, disclose and seek advice!
- ◆ Follow the advice of your DES!

What Are The Disclosure Procedures for Board and Commission Members?

The procedural requirements for disclosures by members are set out in AS 39.52.220 and 9 AAC 52.120. One goal of these provisions is to help members avoid violations of the Ethics Act. The procedures provide the opportunity for members to seek review of matters in advance of taking action to ensure that actions taken will be consistent with the Act.

Procedure for declaring actual or potential conflicts.

Members must declare potential conflicts and other matters that may violate the Ethics Act on the public record and in writing to the chair.

Disclosure on the public record. Members must identify actual and potential conflicts orally at the board or commission's public meeting in advance of participating in deliberations or taking any official action on the matter.

- ◆ A member must always declare a conflict and may choose to refrain from voting, deliberations or other participation regarding a matter.⁴

³ You may supplement the disclosure form with other written explanation as necessary. Your signature on a disclosure certifies that, to the best of your knowledge, the statements made are true, correct and complete. False statements are punishable.

⁴ In most, but not all, situations, refraining from participation ensures that a violation of the Ethics Act does not occur. Abstention does not cure a conflict with

- ◆ If a member is uncertain whether participation would result in a violation of the Act, the member should disclose the circumstances and seek a determination from the chair.

Disclosure in writing at a public meeting. In addition to an oral disclosure at a board or commission meeting, members' disclosures must be made in writing.

- ◆ If the meeting is recorded, a tape or transcript of the meeting is preserved and there is a method for identifying the declaration in the record, an oral disclosure may serve as the written disclosure.
- ◆ Alternatively, the member must note the disclosure on the Notice of Potential Violation disclosure form and the chair must record the determination.

Confidential disclosure in advance of public meeting. Potential conflicts may be partially addressed in advance of a board or commission's public meeting based on the published meeting agenda or other board or commission activity.

- ◆ A member identifying a conflict or potential conflict submits a Notice of Potential Violation or Request for Ethics Determination to the chair, as DES, in advance of the public meeting.
- ◆ This written disclosure is considered confidential.
- ◆ The chair may seek advice from the Attorney General.
- ◆ The chair makes a written determination, also confidential, whether the disclosed matter represents a conflict that will result in a violation of the Ethics Act if the member participates in official action addressing the matter.⁵
- ◆ If so, the chair directs the member to refrain from participating in the matter that is the subject of the disclosure.
- ◆ An oral report of the notice of potential violation and the determination that the member must refrain from participating is put on the record at a public meeting.⁶

respect to a significant direct personal or financial interest in a state grant, contract, lease or loan because the Ethics Act prohibition applies whether or not the public officer actually takes official action.

⁵ The chair must give a copy of the written determination to the disclosing member. There is a determination form available on the Department of Law's ethics web page. The ethics supervisor may also write a separate memorandum.

⁶ In this manner, a member's detailed personal and financial information may be protected from public disclosure.

Determinations at the public meeting. When a potential conflict is declared by a member for the public record, the following procedure must be followed:

- ◆ The chair states his or her determination regarding whether the member may participate.
- ◆ Any member may then object to the chair's determination.
- ◆ If an objection is made, the members present, excluding the member who made the disclosure, vote on the matter.
- ◆ Exception: A chair's determination that is made consistent with advice provided by the Attorney General may not be overruled.
- ◆ If the chair, or the members by majority vote, determines that a violation will exist if the disclosing member continues to participate, the member must refrain from voting, deliberating or participating in the matter.⁷

If the chair identifies a potential conflict, the same procedures are followed. If possible, the chair should forward a confidential written notice of potential violation to the Office of the Governor for a determination in advance of the board or commission meeting. If the declaration is first made at the public meeting during which the matter will be addressed, the members present, except for the chair, vote on the matter. If a majority determines that a violation of the Ethics Act will occur if the chair continues to participate, the chair shall refrain from voting, deliberating or participating in the matter. A written disclosure or copy of the public record regarding the oral disclosure should be forwarded to the Office of the Governor for review by the chair's DES.

Procedures for Other Member Disclosures

A member's interest in a state grant, contract, lease or loan and receipt of gifts are disclosed by filling out the appropriate disclosure form and submitting the form to the chair for approval. The disclosure forms are found on the Department of Law's ethics website: <http://www.law.state.ak.us/doclibrary/ethics.html>.

What Are The Disclosure Procedures for Executive Directors and Staff?

Ethics disclosures of the executive director or staff are made in writing to the appropriate DES (chair for the executive director and the executive director for staff).

- ◆ Disclosure forms are found on the ethics website, noted above.

⁷ When a matter of particular sensitivity is raised and the ramifications of continuing without an advisory opinion from the Attorney General may affect the validity of the board or commission's action, the members should consider tabling the matter so that an opinion may be obtained.

Notices of Potential Violations. Following receipt of a written notice of potential violation, the DES investigates, if necessary, and makes a written determination whether a violation of the Ethics Act could exist or will occur. A DES may seek advice from the Attorney General. If feasible, the DES shall reassign duties to cure a potential violation or direct divestiture or removal by the employee of the personal or financial interests giving rise to the potential violation.

- ◆ These disclosures are not required to be made part of the public record.
- ◆ A copy of a determination is provided to the employee.
- ◆ Both the notice and determination are confidential.

Other Disclosures. The DES also reviews other ethics disclosures and either approves them or determines what action must be taken to avoid a violation of the Act. In addition to the disclosures of certain gifts and interests in the listed state matters, state employees must disclose all outside employment or services for compensation.

- ◆ The DES must provide a copy of an approved disclosure or other determination the employee.

How Are Third Party Reports of Potential Violations or Complaints Handled?

Any person may report a potential violation of the Ethics Act by a board or commission member or its staff to the appropriate DES or file a complaint alleging actual violations with the Attorney General.

- ◆ Notices of potential violations and complaints must be submitted in writing and under oath.
- ◆ Notices of potential violations are investigated by the appropriate DES who makes a written determination whether a violation may exist.⁸
- ◆ Complaints are addressed by the Attorney General under separate procedures outlined in the Ethics Act.
- ◆ These matters are confidential, unless the subject waives confidentiality or the matter results in a public accusation.

⁸ The DES provides a copy of the notice to the employee who is the subject of the notice and may seek input from the employee, his or her supervisor and others. The DES may seek advice from the Attorney General. A copy of the DES' written determination is provided to the subject employee and the complaining party. The DES submits a copy of both the notice and the determination to the Attorney General for review as part of the DES' quarterly report. If feasible, the DES shall reassign duties to cure a potential violation or direct divestiture or removal by the employee of the personal or financial interests giving rise to the potential violation.

What Are The Procedures for Quarterly Reports?

Designated ethics supervisors must submit copies of all notices of potential violations and requests for ethics determination they receive and the corresponding determinations to the Attorney General for review by the state ethics attorney as part of the quarterly report required by the Ethics Act.

- ♦ Reports are due in April, July, October and January for the preceding quarter.
- ♦ A sample report is available on the Department of Law's ethics website.
- ♦ An executive director may file a quarterly report on behalf of the chair and combine it with his or her own report.
- ♦ If a board or commission does not meet during a quarter and there is no other reportable activity, the DES advises the ethics attorney by e-mail and no other report is required .
- ♦ Reports are sent to Department of Law legal assistant Kamie Willis via mail or to Kamie_Willis@law.state.ak.us.

If the state ethics attorney disagrees with a reported determination, the attorney will advise the DES of that finding. If the ethics attorney finds that there was a violation, the member who committed the violation is not liable if he or she fully disclosed all relevant facts reasonably necessary to the ethics supervisor's or commission's determination and acted consistent with the determination.

How Does A DES or Board or Commission Get Ethics Advice?

A DES or board or commission may make a written request to the Attorney General for an opinion regarding the application of the Ethics Act. In practice, the Attorney General, through the state ethics attorney, also provides advice by phone or e-mail to designated ethics supervisors, especially when time constraints prevent the preparation of timely written opinions.

- ♦ A request for advice and the advisory opinion are confidential.
- ♦ The ethics attorney endeavors to provide prompt assistance, although that may not always be possible.
- ♦ The DES must make his or her determination addressing the potential violation based on the opinion provided.

* * * * *

It is the obligation of each board or commission member, as well as the staff, to ensure that the public's business is conducted in a manner that is consistent with the standards set out in the Ethics Act. We hope this summary assists you in ensuring that your obligations are met.

FORMS

Ethics Disclosure Form

CONFIDENTIAL REQUEST FOR ETHICS DETERMINATION

TO: _____, Designated Ethics Supervisor

(My Department, Agency, Board, Commission)

I request advice regarding the application of the Executive Branch Ethics Act (AS 39.52.010 – .960) to my situation. The situation involves the following:

I have provided additional information in the attached document(s).

I believe the following provisions of the Ethics Act may apply to my situation:	
_____	AS 39.52.120, Misuse of Official Position
_____	AS 39.52.130, Improper Gifts
_____	AS 39.52.140, Improper Use or Disclosure of Information
_____	AS 39.52.150, Improper Influence in State Grants, Contracts, Leases or Loans
_____	AS 39.52.160, Improper Representation
_____	AS 39.52.170, Outside Employment Restricted
_____	AS 39.52.180, Restrictions on Employment after Leaving State Service
_____	AS 39.52.190, Aiding a Violation Prohibited

I understand that I should refrain from taking any official action relating to this matter until I receive your advice. If the circumstances I described above may result in a violation of AS 39.52.110 - .190, I intend that this request serve as my disclosure of the matter in accordance with AS 39.52.210 or AS 39.52.220.

I certify to the best of my knowledge that my statement is true, correct, and complete. In addition to any other penalty or punishment that may apply, the submission of a false statement is punishable under AS 11.56.200 - AS 11.56.240.

(Signature)

(Date)

(Printed Name)

(Position Title)

(Location)

(Division/Agency/Board/Commission)

ETHICS DISCLOSURE FORM

CONFIDENTIAL

Notification of Potential Violation Board or Commission Member

TO: _____, Designated Ethics Supervisor
(Board or Commission)

In accordance with AS 39.52.220(a), I am notifying you of a situation which may result in a violation of the Code of Ethics. I am requesting your determination regarding a possible violation of:

- _____ AS 39.52.120, Misuse of Official Position
- _____ AS 39.52.130, Improper Gifts
- _____ AS 39.52.140, Improper Use or Disclosure of Information
- _____ AS 39.52.150, Improper Influence in State Grants, Contracts, Leases or Loans
- _____ AS 39.52.160, Improper Representation
- _____ AS 39.52.180, Restrictions on Employment after Leaving State Service
- _____ AS 39.52.190, Aiding a Violation Prohibited

The situation is as follows (please use a separate sheet for additional space): _____

I certify to the best of my knowledge that my statement is true, correct, and complete. In addition to any other penalty or punishment that may apply, the submission of a false statement is punishable under AS 11.56.200 - AS 11.56.240.

(Member Signature)

(Date)

(Printed Name)

Note: Under AS 39.52.220, if the designated ethics supervisor or a majority of the board or commission, not including the disclosing member, determines that a violation of AS 39.52.110 – 39.52.190 will exist if the member continues to participate, the member shall refrain from voting, deliberating, or participating in the matter. A member will not be held liable under the Ethics Act for actions in accordance with such a determination so long as the member has fully disclosed all facts reasonably necessary to the determination and the attorney general has not advised the member, chair, or board or commission that the action is a violation. Disclosures and determinations must be forwarded to the State Ethics Attorney, Office of the Attorney General, Department of Law, 1031 West 4th Avenue, Suite 200, Anchorage, Alaska 99501-1994.

ETHICS DISCLOSURE FORM

Notification of Receipt of Gift

To: _____, Designated Ethics Supervisor

In accordance with AS 39.52.130(b), I am providing notice of my receipt of a gift given to me or a member of my family with a value in excess of \$150.00.

1. Was the gift given to you because you are a state employee or a member of a state board or commission? ☐ Yes ☐ No
2. Can you take official action that may affect the person who gave you the gift? ☐ Yes ☐ No

If the answer to both of these questions is no, you do not need to report this gift. If the answer to either question is yes, or if you are not sure, you must complete this form and provide it to your designated ethics supervisor.

The gift is _____

My estimate of its value is \$ _____

I received it from _____

The date of receipt was _____

The gift was received by a member of my family ☐ Yes ☐ No

If you checked "Yes" to question 2 above, explain the official action you may take that affects the giver (attach additional page, if necessary): _____

I certify to the best of my knowledge that my statement is true, correct, and complete. In addition to any other penalty or punishment that may apply, the submission of a false statement is punishable under AS 11.56.200 - AS 11.56.240.

(Signature)

(Date)

(Printed Name)

(Position Title)

(Location)

(Division/Agency/Corporation/Board/Commission)

(Designated Ethics Supervisor)

Approved: _____ (initials)

(Date)

If action is necessary under AS 39.52.210 or AS 39.52.220 please attach explanation.

ETHICS DISCLOSURE FORM

Notification of Receipt of Gift from Another Government

To: Director of Administrative Services, Office of the Governor

In accordance with AS 39.52.130(e), I am providing notice of my receipt of a gift accepted on behalf of the state given to me or a member of my family from another government.

The gift is _____

My estimate of its value is \$ _____

I received it from _____

The date of receipt was _____

I received this gift under the following circumstances:

I can take or withhold the following official action that affects the giver:

The gift was received by a member of my family ☐ Yes ☐ No

I certify to the best of my knowledge that my statement is true, correct, and complete. In addition to any other penalty or punishment that may apply, the submission of a false statement is punishable under AS 11.56.200 - AS 11.56.240.

(Signature)

(Date)

(Printed Name)

(Position Title)

(Location)

(Division/Agency/Corporation/Board/Commission)

Designated Ethics Supervisor: Reviewed: _____ (Initials) _____ (Date)

(Director of Administrative Services, Office of the Governor)

(Date)

Determination of appropriate disposition: _____

A copy of this disclosure showing disposition should be returned to the designated ethics supervisor for forwarding to the gift recipient.

ETHICS DISCLOSURE FORM

Grants/Contracts/Leases/Loans Notification

To: _____, Designated Ethics Supervisor

In accordance with AS 39.52.150(d), I am reporting a personal or financial interest in a state grant, contract, lease, or loan (circle one) held by me or a family member and awarded, executed, or administered by the agency that I serve.

The grant, contract, lease, loan was awarded by:

on _____ (date).

Description of the state grant, contract, lease, or loan:

Recipient(s) of the state grant, contract, lease, or loan:

My financial or personal interest in the state grant, contract, lease, or loan:

Official action I can take regarding the state grant, contract, lease or loan:

I certify to the best of my knowledge that my statement is true, correct, and complete. In addition to any other penalty or punishment that may apply, the submission of a false statement is punishable under AS 11.56.200 - AS 11.56.240.

(Signature)

(Date)

(Printed Name)

(Position Title)

(Location)

(Division/Agency/Corporation/Board/Commission)

(Work Supervisor's Signature)

(Date)

(Designated Ethics Supervisor's Signature)

Approved: _____ (initials)

(Date)

If action is necessary under AS 39.52.210 or AS 39.52.220 please attach explanation.